

LEASE AGREEMENT

This Lease Agreement is entered into this _____ day of _____, 2020, by and between the City of Lafayette, Indiana, a municipal corporation ("City") and Long Center, Inc, an Indiana non-profit corporation ("LCI");

1. **Leased Premises.** The City leases to LCI the building commonly known as the Lafayette Theater located at 600 Main St, Lafayette, Indiana ("Leased Premises") and more completely described on the attached Exhibit "A".

2. **Term.** The initial lease term shall commence on January 8, 2020 and shall continue through March 18, 2027. LCI shall have the option to renew this Lease Agreement for one (1) additional ten (10) year term by giving written notice to the City no less than three months prior to the expiration of the initial term.

3. **Rent.** LCI shall pay as rent the sum of \$10.00 per year payable in advance.

4. **Utilities.** The City shall provide, at its cost, gas, electric and water/wastewater (including any related stormwater or fire line fees) to the Leased Premises. LCI shall be responsible, at its sole cost, for all trash removal at the Leased Premises.

5. **Use of Premises.** LCI shall use the Leased Premises for lawful purposes only and shall primarily be operated by LCI as an Event Center.

6. **Liquor License.** LCI shall be able to apply for an alcoholic beverage license for use at the Leased Premises. LCI shall operate in compliance with all alcohol beverage permit laws, rules and regulations and at all times maintain appropriate liquor liability insurance and name the City as Additional Insured.

7. **Assignment and Subletting.** LCI shall not assign, mortgage, encumber or transfer this Lease in whole or in part, or sublet the Leased Premises or any part thereof without the prior written consent of the City, which consent may be withheld at the sole discretion of City. LCI shall develop policies for rental of all or portions of the building on an hourly or temporary basis, including, without limitation, for performances, rehearsals and meetings. The written consent of the City is required for such policies, which consent shall not be unreasonably withheld, delayed or conditioned. Rental of all or portions of the building on an hourly or temporary basis, consistent with said approved policies, shall not require additional approval of the City.

8. **Mechanics' Liens.** LCI shall not permit any Statement of Intention to hold a Mechanic's Lien to be filed against the Leased Premises or any part thereof nor against any interest or estate therein by reason of labor, services or materials claimed to have been performed or furnished to or for LCI.

9. **Alteration and Maintenance of Licensed Premises.**

Alterations. LCI shall not cause or permit alterations, additions or changes of or upon any part of the Leased Premises without first obtaining the written consent of City.

Responsibility of City. The City shall be responsible for all major repairs to the interior and exterior of the Leased Premises, including, but not limited to, the furnace, air conditioner and plumbing. For the purpose of this Agreement, major repairs shall be defined as any one repair which costs exceed five hundred dollars (\$500.00) per occurrence.

Responsibility of LCI. LCI shall be responsible for all other routine repair and maintenance. LCI shall be responsible for all janitorial duties including but not limited to: general cleaning of the building; vacuum, sweep and mop floors; clean and stock restrooms and clean up spills. LCI shall be responsible for providing, at their sole cost, any janitorial supplies used in the performance of their janitorial duties. In the event LCI fails to make any repairs to the Leased Premises as specified above, the City may, in its discretion, do so and charge LCI such amount as additional rent, payable within thirty (30) days.

10. **Surrender and Holdover.** Upon the expiration or sooner termination of this Lease, LCI shall surrender to City the Leased Premises, together with all other property affixed to the Leased Premises, broom clean and in the same or better order and condition in which LCI received them, the effects of ordinary wear, acts of God, casualty, insurrection, riot or public disorder excepted. If LCI vacates or abandons the Leased Premises or is dispossessed by process of law, any personal property belonging to LCI and left on the Leased Premises shall be deemed abandoned at the option of City and shall become the property of City. If LCI shall remain in possession of all or any part of the Leased Premises after the expiration of the term of this Lease, with the consent of the City, then LCI shall be a tenant on a month to month at the same rental and subject to all of the other applicable covenants, terms and conditions hereof.

11. **Insurance.** LCI shall have the responsibility to insure its own personal property located in the Leased Premises. LCI waives all claims against City for damages to goods or for injuries to persons on or about the Leased Premises from any cause arising at any time. LCI shall procure and maintain General Liability insurance (including automobile) with a combined single limit of \$1,000,000 covering the Leased Premises and LCI's use thereof. The City shall be named as an Additional Insured and be given a 30 day notice of cancellation, non-renewal or significant change of coverage. LCI shall maintain Worker's Compensation insurance at the statutory limit and include a Waiver of Subrogation in favor of the City. Certificates of insurance shall be provided by LCI to City.

12. **Indemnification and Release.**

A. LCI shall indemnify, defend and hold harmless City from and against any loss (including, but not limited to, reasonable attorney fees) and against all claims, actions, damages, liability and expenses in connection with loss of life, bodily and personal injury or damage to the Leased Premises arising from or in connection with LCI's use of the Leased Premises or occasioned wholly or in part by any act or omission of LCI, its agents, contractors, employees, concessionaires or invitees, or by anyone permitted to be on the Leased Premises by LCI, except any arising or occasioned wholly or in part by an act or omission of City, its agents, contractors, employees, concessionaires or invitees.

B. LCI assumes all risks of and the City shall not be liable for injury or damage to property resulting from the condition of the Leased Premises.

C. LCI agrees, at all times, to defend, indemnify and hold harmless City against all actions, demands, costs, damages or expenses of any kind (including, but not limited to, reasonable attorneys' fees) which may be brought or made against or which City may pay or incur by reason of LCI's occupancy of the Leased Premises or its negligent performance of or failure to perform any of its obligations under this Lease.

D. In case City shall, without fault on its part, be made a party to litigation commenced by or against LCI, LCI shall defend, indemnify and hold harmless the same and shall pay all costs, expenses and reasonable attorneys' fees incurred by or on behalf of the same in connection with such litigation. This provision shall survive expiration or termination of this Lease.

13. **Events of Default.** Any of the following shall be deemed an Event of Default:

A. LCI's failure to perform or observe any other covenant, term or condition of this Lease Agreement to be performed or observed by LCI, and if curable, the failure continues for fifteen (15) days after written notice thereof is given to LCI; or

B. Abandonment of the Leased Premises.

14. **City's Remedies.** Upon the occurrence of any Event of Default City may, at its option, in addition to any other remedy or right it has hereunder or by law may re-enter the Leased Premises, without demand or notice, and resume possession by an action in law or equity or by force or otherwise and without being liable in trespass or for any damages and without terminating this Lease. City may remove all persons and property from the Leased Premises and such property may be removed and stored at the cost of LCI.

Upon the occurrence of any Event of Default, City may, if such default has not been cured, cure that default at the expense of LCI. If City in curing such default is compelled to pay or elects to pay any sum of money or do any acts that require the payment of any sum of money, the sum so paid or incurred shall be reimbursed by LCI upon demand by City.

15. **Attorney Fees.** In the event any litigation arising from or related to this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs and attorney fees.

16. **Personal Property.** Certain sound, lighting and general theater personal property owned by the City, as set forth on the attached Exhibit "B" ("Personal Property"), is currently located at the Leased Premises. LCI may use such Personal Property during the term of this lease provided that LCI maintains and cares for such Personal Property and does not commit any waste associated with such use. The Personal Property shall be returned to the City in the same condition

as currently existing, ordinary wear and tear excepted. In the event any of the Personal Property is damaged, destroyed or becomes inoperable due to ordinary wear and tear, the parties agree to discuss with each other, in good faith, the replacement of the personal property.

17. **Notice.** Any notices to be given hereunder shall be deemed sufficiently given when in writing and (a) actually served on the party to be notified or (b) placed in an envelope directed to the party to be notified at the following addresses and deposited in the United States mail by certified or registered mail, postage prepaid.

To City: City of Lafayette, Attn: Mayor's Office, 20 N. 6th St, Lafayette, Indiana 47901.

To LCI: At Leased Premises or such other address as LCI may designate in writing.

Such addresses may be changed by either party by giving written notice as to the new address as above provided.

18. **General Provisions.**

A. ***Remedies cumulative.*** The remedies given to City in this Lease shall be cumulative, and the exercise of any one remedy by City shall not be to the exclusion of any other remedy.

B. ***Waivers.*** No waiver by City of any default by LCI shall be effective unless in writing. Waiver by City of any breach of any covenant or duty of LCI under this Lease is not a waiver of a breach of any other covenant or duty of LCI, or of any subsequent breach of the same covenant or duty. City's acceptance of rent shall not be deemed a waiver as to any preceding default.

C. ***Binding on Successors.*** This Lease shall extend to and be binding upon the successors and assigns of the parties. This provision, however, shall not be construed to permit the assignment of this Lease except as may be permitted hereby.

D. ***Captions are for convenience only.*** The captions and numbers to the paragraphs of this Lease are solely for the convenience of the parties and shall not be used to explain, define, limit, modify, simplify, or aid in the interpretation of the provisions of this Lease.

E. ***Forms of words.*** When applicable, use of the singular form of any word shall mean or apply to the plural and the neuter form shall mean or apply to the feminine or masculine.

F. ***Lease Is Parties' Entire Agreement.*** This Lease shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding upon either party except to the extent incorporated in this Lease. Any modification of this Lease or additional obligation assumed by either party in connection with this Lease shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

G. ***Discriminatory Practices Disapproved.*** No party hereto shall exclude, on the basis of race, color, age, physical or mental disability, sex, sexual orientation, gender identity, place of residence, or national origin, any person from using the Leased Premises or from participating in any of the activities or services permitted by this Lease.

H. ***Indiana Smoke Free Law.*** LCI shall comply with Indiana's Smoke Free Air Law and smoking shall not be permitted anywhere within the Leased Premises.

IN WITNESS WHEREOF, City and LCI have executed this Lease on the dates written below, and if this Lease is executed in counterparts, each shall be deemed an original.

LESSEE

LONG CENTER, INC

By: Theresa J. Sprey

Printed: Theresa J. Sprey

Title: President

Dated: January 16, 2020

LESSOR

City of Lafayette, Indiana

By its Board of Public Works and Safety

Gary Henriott, President

Cindy Murray, Member

Norm Childress, Member

Ron Shriner, Member

Amy Moulton, Member

Attest:

Mindy Miller, Deputy Clerk

Dated:

EXHIBIT "A"

Lot numbered One (1) in Jeremiah Bartholomew's Addition to the Town, not City of Lafayette, as platted upon a part of the South Fraction of the Southeast Quarter of Section Twenty (20), of Township Twenty-three (23) North, Range Four (4) West. Also a strip of ground thirteen and one-half (13 ½) inches in width adjacent to and along the West side of lot one in Jeremiah Bartholomew's Addition to the City of Lafayette, in said county and state. Located in Fairfield Township, Tippecanoe County, Indiana.

EXHIBIT "B"

PERSONAL PROPERTY

(Complete list is forthcoming)

